UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Midwest Independent Transmission System Operator, Inc.	Docket Nos. ER04-691-038 ER04-691-043 ER04-691-048
Public Utilities With Grandfathered Agreements in the Midwest ISO Region	Docket Nos. EL04-104-036 EL04-104-041 EL04-104-046

ORDER ON REHEARING AND COMPLIANCE FILING

(Issued July 22, 2005)

1. In an order dated August 6, 2004, the Commission approved the Midwest Independent Transmission System Operator, Inc.'s (Midwest ISO) proposed Transmission and Energy Markets Tariff (TEMT), under which the Midwest ISO has initiated Day 2 operations in its 15-state region.[1] The Midwest ISO's Day 2 operations include, among other things, day-ahead and real-time energy markets and a financial transmission rights (FTR) market for transmission capacity. The TEMT II Order required the Midwest ISO to make an assortment of compliance filings to implement various Commission directives.

[1] *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163 (2004) (TEMT II Order), *order on reh'g*, 109 FERC ¶ 61,157 (2004) (TEMT II Rehearing Order), *order on reh'g*, 111 FERC ¶ 61,043 (2005) (Compliance Order III). The TEMT contemplates that all services provided pursuant to its terms and conditions will be provided by a Transmission Provider. In turn, the TEMT defines "Transmission Provider" as the Midwest ISO or any successor organization. *See* Module A, section 1.320, Second Revised Sheet No. 133. For clarity, we will refer to the Midwest ISO wherever the TEMT refers to a Transmission Provider.

2. Today's order will address requests for rehearing of Compliance Order III and its companion, Compliance Order IV,[2] as well as the Midwest ISO's May 16, 2005 filing to comply with Compliance Order IV.

I. Background

3. The TEMT II Order accepted and suspended the proposed TEMT and permitted it to become effective March 1, 2005, subject to conditions and further orders.[3] The Commission also accepted certain tariff sheets (pertaining to FTRs) to be effective on August 6, 2004, subject to conditions and further order. In order to address the Midwest ISO's unique features, such as the fact that it lacked experience operating as a single power pool and had only a short period of experience operating under a single reliability framework, the Commission ordered the Midwest ISO to implement additional safeguards to ensure additional protections for wholesale customers during startup and transition to fully-functioning Day 2 energy markets. The Commission addressed requests for rehearing of the TEMT II Order in the TEMT II Rehearing Order, issued November 8, 2004, and required further compliance filings.

4. Compliance Order III accepted filings that the Midwest ISO and its Independent Market Monitor (IMM) made to comply with the TEMT II Rehearing Order, required the Midwest ISO to file further revisions to its compliance filing, and addressed various requests for rehearing of the TEMT II Rehearing Order. The Midwest ISO's proposal included clarifications to, among other things: (1) FTR procedures; (2) various definitions in Module A of the TEMT; and (3) deadlines for submission of firm and non-firm schedules. The Midwest ISO also responded to specific questions from Cinergy Services, Inc. (Cinergy). The IMM's filing detailed a safety-net plan for day-ahead mitigation, detailed a plan and timeline for implementation of day-ahead mitigation, and explained a plan to monitor for over-scheduling in the day-ahead market to monetize the Narrow Constrained Area (NCA) congestion hedge and to monitor for aggregate day-ahead schedules that exceed the import capability in NCAs.

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[2] *Midwest Independent Transmission System Operator, Inc.*, 111 FERC ¶ 61,053 (2005) (Compliance Order IV).

[3] In an order issued February 17, 2005, the Commission granted the Midwest ISO's motion to change the effective date of the TEMT to April 1, 2005. *Midwest Independent Transmission System Operator, Inc.*, 110 FERC ¶ 61,169 (2005).

5. Compliance Order IV addressed five requests for rehearing of Compliance Order I, and also accepted the Midwest ISO's compliance filing thereto. The latter filing proposed TEMT modifications related to: (1) the FTR allocation process; (2) automated and expedited mitigation; (3) control area mitigation; (4) transitional safeguards for exposure to marginal loss charges; (5) FTRs in retail choice states; (6) market monitoring and market power mitigation; (7) emergency procedures; (8) resource adequacy requirements; (9) credit policy; and (10) other, miscellaneous tariff issues.

II. Requests for Rehearing, Compliance Filing, Notice and Protests

6. Ameren Services Company (Ameren) and Ameren Energy Marketing Company filed a request for rehearing of Compliance Order III, together with Ameren Energy Marketing Company's motion to intervene out of time. The Midwest TDUs[4] filed a request for rehearing of Compliance Orders III and IV. We will describe the requests for rehearing below.

7. On May 16, 2005, the Midwest ISO made a compliance filing (May 16 filing) in response to the requirements of Compliance Order IV. The May 16 filing proposes revised tariff sheets that: (1) clarify the rights and responsibilities of non-control area utilities; (2) clarify that control area operators' actions will not be subject to enforcement if they follow the directions of the North American Electric Reliability Council (NERC), the Midwest ISO, local reliability councils or individual states; (3) require the IMM to monitor, and report to the Commission, transmission operators' behavior in order to determine if there is a pattern of scheduling outages that increases market costs compared to an alternative and lower-cost outage schedule; and (4) make minor revisions to words and phrases.

8. Notice of the Midwest ISO's compliance filing was published in the *Federal Register*, 70 Fed. Reg. 30,099 (2005), with interventions and protests due on or before

[4] The Midwest TDUs, for purposes of this pleading, are: Great Lakes Utilities, Indiana Municipal Power Agency, Lincoln Electric System, Madison Gas and Electric Company, Midwest Municipal Transmission Group, Missouri Joint Municipal Electric Utility Commission, Missouri River Energy Services, Southern Minnesota Municipal Power Agency and Upper Peninsula Transmission Dependent Utilities.

June 6, 2005. The Midwest TDUs[5] and Wabash Valley Power Association, Inc. (Wabash Valley) filed conditional protests, which we will describe below.

III. Discussion

A. Procedural Matters

9. When late intervention is sought after the issuance of a dispositive order, the prejudice to other parties and burden upon the Commission of granting the late intervention may be substantial. Thus, movants bear a higher burden to demonstrate good cause for granting such later intervention.[6] Ameren Energy Marketing Company has not met this higher burden of justifying its late intervention. We will address Ameren's request for rehearing, however, because Ameren is already a party to this proceeding.

B. Requests for Rehearing

1. Safety-Net Mitigation Plan

a. Requests for Rehearing

10. The Midwest TDUs state that the IMM proposed, and the Commission approved in Compliance Order III, a safety-net mitigation plan that would allow sellers to exercise market power twice within a 90-day period before the seller is placed on a seven-day watch list. The Midwest TDUs allege that the Commission erred when it accepted this provision. They argue that this 90-day period should be eliminated and the seller placed on the seven-day watch list after each infraction.

11. The Midwest TDUs state that a seller's success at having exercised market power the first time provides strong evidence that its subsequent bid from the same unit (or

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[5] The Midwest TDUs, for purposes of this pleading, are: Great Lakes Utilities, Indiana Municipal Power Agency, Lincoln Electric System, Madison Gas and Electric Company, Midwest Municipal Transmission Group, Missouri Joint Municipal Electric Utility Commission, Missouri River Energy Services, Southern Minnesota Municipal Power Agency, Upper Peninsula Transmission Dependent Utilities and Wisconsin Public Power Inc.

[6] *See Midwest Independent Transmission System Operator, Inc.*, 102 FERC ¶ 61,250 at P 7 (2003).

other units in the same NCA or Broad Constrained Area (BCA)) that exceed the conduct threshold will also cause the market impact threshold to be exceeded. Therefore, the Midwest TDUs aver that, after the bidder has succeeded once, the subsequent submission of an excessive bid justifies subjecting the seller to mitigation. They state that placing the bidder on the seven-day watch list after each violation of the TEMT's mitigation thresholds may restore some of the incentive for the seller to bid competitively, while maintaining the 90-day period encourages bids above marginal cost. Further, the Midwest TDUs allege that the 90-day period creates a gaming opportunity, and that the "Commission will likely be loathe to re-set prices after the fact to remedy the already exercised market power."[7]

12. The Midwest TDUs argue that the Commission cannot permit market-based sales without empirical proof that existing competition would ensure that the actual price is just and reasonable.[8] They add that the Commission has recognized that market power concerns are elevated BCAs and NCAs because of transmission constraints and insufficient competition. The Midwest TDUs thus state that the Commission has violated its obligations under the Federal Power Act (FPA) by allowing Day 2 energy markets to go into effect, and market prices to be set, in these areas without timely mitigation of market power.

b. Discussion

13. The Commission addressed some of the Midwest TDUs' arguments in Compliance Order III.[9] We repeat that a single infraction does not constitute a pattern, and therefore the seven-day mitigation feature of the safety-net plan is not appropriate for each infraction.[10] Rather, only after a pattern has been established is longer-term mitigation appropriate. Absent evidence of a pattern of market power abuse, we find no basis to presume that long-term mitigation is needed for a single event in which the thresholds are exceeded by a supplier.

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[7] *Id.* at 5.

[8] Request for Rehearing of Midwest TDUs at 2 (citing *Farmers Union Cent. Exch., Inc. v. FERC*, 734 F.2d 1486, 1510 (D.C. Cir. 1984)).

[9] *See* Compliance Order III at P 55 and P 65.

[10] *See Id.* at P 84.

14. We do not consider the accepted mitigation plan to be unreasonable as it mitigates offers that exceed the conduct threshold the next day after a supplier's offers have exceeded the thresholds, and provides longer-term safety-net mitigation in the event the supplier does not exceed the conduct threshold on the next day but does exceed the conduct and impact thresholds once in the next 90 days. In fact, we believe the accepted mitigation plan offers fewer opportunities for gaming than the Midwest TDUs' alternative proposal, which would allow suppliers to avoid mitigation by timing their infractions for every eighth day. We also note that the lag in mitigation only applies to day-ahead market activity. In this market, bidding by virtual suppliers can counteract the impact of a potential exercise of market power by one supplier, and purchasers also have the alternative of purchasing in the real-time market.

15. With respect to the Midwest TDUs' claim that this mitigation plan violates the FPA, we disagree. As we stated in Compliance Order III, the Commission has found that the Midwest ISO's plan to operate as a single energy market is just and reasonable, and consistent with the provisions of the FPA.[11] The safety-net mitigation plan does not change the original mitigation plan that the Commission found to be just and reasonable, other than to apply longer-term mitigation for multiple, yet not consecutive, violations. We consider this mitigation plan, which limits the potential exercise of market power in a day-ahead market with virtual and real-time market alternatives, to meet the requirements of the FPA, and superior to the alternatives, including the one proposed by the Midwest TDUs, for the reasons discussed. For these reasons, we deny rehearing.

2. Refunds for Marginal Loss Surplus Amounts

a. Requests for Rehearing

16. The Midwest TDUs state that, in Compliance Order IV, the Commission appeared to agree with the Midwest TDUs that, during a five-year transition to marginal losses, marginal loss surplus refunds should not be pooled across multiple load-serving entities within a single control area. They then allege that the Commission erred by allowing tariff sheets that require such pooling to remain on file for at least eleven months pending acceptance of a compliance filing due in late December. Because it is unclear that the compliance filing could provide for refund of marginal losses charged in this interim period, the Midwest TDUs argue that the gap will result in transitional loss treatment that is unjust, unreasonable and unduly discriminatory.

[11] *See Id.* at P 79.

17. The Midwest TDUs argue that, at least during the five-year transition period, load-serving entities that pay marginal losses disproportionately different from their historic, average losses should receive a proportionately larger share of the marginal loss surplus refunds. These entities, the Midwest TDUs add, should not have to pool those refunds with other load-serving entities that pay lower marginal loss charges but serve load in the same control area. They state that the Commission agreed that participants whose costs from marginal losses exceed the costs that would result from average loss pricing would receive refunds proportionate to their own marginal losses.[12] The Midwest TDUs indicate that large control areas have exploited the compliance process to create pools in which they would share the TDUs' larger refunds, and that Compliance Order IV inappropriately approved diverting the TDUs' loss surplus refunds into control area pools. The Midwest TDUs argue that allowing the compliance filing to take effect was in error, and that the compliance filing failed to implement the directives of the TEMT II Order. They argue that they will bear a larger share of loss charges than they did before, while those who discriminated against them will bear a smaller share of loss charges than they did previously. The Midwest TDUs argue that this treatment is unjust, unreasonable and unduly discriminatory.

b. Discussion

18. Contrary to the Midwest TDUs' assertion, Compliance Order IV implements the requirements of the TEMT II Order in its approval of a refund mechanism that credits surplus loss revenues to participants whose marginal losses exceed costs that would result from average loss pricing.[13] The Commission did not order that the refunds be directly assigned, as the Midwest TDUs claim. The TEMT II Order gave general guidance that the Midwest ISO should develop a single methodology for the refund of the difference between marginal and average losses,[14] and Compliance Order IV recognized the practical impossibility of directly assigning loss refunds.[15] Hence, the Commission's approval of the pooling method was consistent with the Commission's previous directive and reflected the limitations associated with implementation; therefore, that decision was neither arbitrary nor capricious.

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[12] Request for Rehearing of Midwest TDUs at 6.

[13] *See* TEMT II Order at P 73.

[14] *Id.* at P 75.

[15] *See* Compliance Order IV at P 50.

19. At this point, the Commission has no basis to assume that smaller entities with distant generation pay more than average losses. Neither the TEMT II Order, Compliance Order I nor Compliance Order IV made a finding on this issue. Therefore there is no factual basis to conclude the current methodology is unjust and unreasonable.[16] For this reason, Compliance Order IV directed that an analysis be completed to address the reasonableness of the current methodology. While the Midwest TDUs opine that the current methodology results in a smaller refund for their members, they do not provide a basis for the Commission to make a finding in support of their claims of discrimination. For these reasons, we deny the request for rehearing.

3. System Purchase Contracts

a. Request for Rehearing

20. Ameren takes issue with the Commission's finding in Compliance Order III that parties responsible for supplying energy are required to nominate and hold FTRs and be responsible for congestion charges. It states that it has numerous contracts with different entities that make system purchases. Ameren argues that the majority of its contracts specify a point of delivery that requires the customer to be responsible for transmission charges and, in some cases, congestion charges. It argues that Compliance Order III effectively abrogates these contracts by shifting the point of delivery and making Ameren responsible for FTRs and congestion. Ameren seeks clarification that the Commission did not intend to shift the contracted-for point of delivery in Ameren's system purchase agreements, or, in the alternative, rehearing of the Commission's finding on this point.

21. Ameren argues that it did not assume the risk of obtaining or paying for transmission service to deliver its product, and that its customers negotiated rates that contemplate the fact that they would also have to obtain transmission service. Ameren complains that Compliance Order III shifts this risk without shifting the price that the customer pays or that Ameren receives. It asks the Commission to clarify that the

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[16] The Midwest TDUs allege in their request for rehearing that tariff sheets will remain on file for at least eleven months, and that it is not clear that the compliance filing could reach back and provide for refund of marginal losses charged in that interim period. Because actions to change the loss mechanism must be prospective, and must be based on a filing under section 205 or 206 of the FPA, any revisions in the future will be prospective in nature. Compliance Order IV merely directed that the Midwest ISO make an informational filing that provides actual data on losses among market participants within Balancing Authorities.

Commission did not intend to shift the responsibility for FTRs and congestion to the energy supplier. If the Commission did intend to shift this risk, Ameren asks the Commission to clarify that it will allow Ameren to renegotiate or terminate the contracts in question.

22. Next, Ameren requests clarification that the Commission did not intend to abrogate Ameren's contracts in violation of the *Mobile-Sierra* doctrine;[17] in the alternative, it requests rehearing. Ameren argues that the Commission has not provided a particularized analysis of the ways in which Ameren's agreements harm the public interest or found that abrogating Ameren's contracts would be in the public interest, as the *Mobile-Sierra* doctrine requires.

b. Discussion

23. We clarify, as Ameren requests, that the Commission did not intend to, and did not, abrogate Ameren's system purchase contracts in violation of the *Mobile-Sierra* doctrine. The Commission has modified certain grandfathered agreements (GFAs) effective in the Midwest ISO region as part of this proceeding.[18] However, the Commission has not modified Ameren's system purchase contracts. There is nothing in the record or in Ameren's request for rehearing to indicate that the contracts Ameren refers to in its request for rehearing were among the agreements that the Commission has modified, and the Midwest ISO tariff likewise does not indicate that there are any system purchase contracts among Ameren's GFAs.[19]

24. It has been the Commission's stated preference that parties to such contracts come to an accommodation among themselves on the appropriate assignment of FTRs and congestion costs.[20] Ameren's request for rehearing illustrates the wisdom of requiring

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[17] *See FPC v. Sierra Power Co.*, 350 U.S. 348 (1956); *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956).

[18] *See Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,236 at P 136-40 (2004), *order on reh'g*, 111 FERC ¶ 61,042 (2005), *reh'g pending*.

[19] Attachment P to the TEMT, which provides a list of currently-effective GFAs, indicates that Ameren is a party to four GFAs: one interchange agreement, two power supply and transmission service agreements, and one joint dispatch agreement. Attachment P, Second Revised Sheet Nos. 1415-17, First Revised Sheet No. 1448Y.

[20] *See* TEMT II Rehearing Order at P 161-62.

parties to contracts to seek to resolve their differences among themselves in the first instance. While Ameren provides general references to contractual terms in its request for rehearing, we have neither an adequate record on the terms of those contracts nor a sufficient understanding of the contracting parties' interests to make an informed decision. If Ameren seeks to bring issues arising from its contracts before the Commission, Ameren should make a filing that describes the dispute and the relevant contractual terms. That filing should be made in a new proceeding, since it will address issues beyond the scope of the Commission's approval of the Midwest ISO TEMT. The Commission will consider Ameren's concerns at that time. Inasmuch as Ameren's request for rehearing raises issues beyond the scope of this proceeding, we deny rehearing.

C. Compliance Filing

1. Non-Control Area Utilities

a. Background and Compliance Filing

25. In response to rehearing requests, the Commission in Compliance Order IV granted rehearing and directed the Midwest ISO to study the exchange of operating information between the Midwest ISO, its control areas, and its non-control area utilities to determine whether the Module A definitions that govern these interactions are consistent with actual market operations.[21]

26. The May 16 filing proposes revised tariff sheets that revise the definitions of Direct Control Load Management, Interruptible Demand and Interruptible Load to state that where Regional Reliability Organization (RRO) agreements do not restrict reserve sharing to only the control area operator, utilities acting as market participants may become members of the reserve-sharing pool. These members have the right to participate in the reserve-sharing pool, the right to call on operating reserves, and are obligated to supply reserves when called upon by other entities. Also, utilities meeting these conditions, and which have interruptible contracts with retail customers, may control their interruptible load without direction from the control area operator.

b. Comments

27. The Midwest TDUs argue the May 16 filing continues to impose unjustifiable burdens on non-control area utilities since the proposed definition allows utilities to claim

[21] *See* Compliance Order IV at P 143.

load as interruptible, and thus the amount of reserves that must be designated,[22] only if they first meet certain requirements, *i.e.*, participation in a reserve-sharing group that permits participation by non-control area utilities. The Midwest TDUs contend this definition discriminates against those non-control area utilities whose control area utilities have excluded non-control area utilities from a reserve-sharing group. As a result, in these areas, the non-control area utilities would be required to carry extra planning reserves unless they turn over control of their retail interruptible load to the control area utilities.

28. The Midwest TDUs assert the Midwest ISO fails to justify imposing this requirement. The Midwest TDUs state that the proposed definitions undermine Commission efforts to foster control area consolidation, are in contrast to interruptible load definitions used in reserve calculations performed by RROs in the Midwest ISO footprint, and contrast with the fundamental principle that planning reserves are carried for firm, not interruptible, load of the load-serving entity.[23] The Midwest TDUs propose to substitute "entity" for references to "Control Area Operator" in each definition and strike all the proposed revisions added by the Midwest ISO, thereby making these definitions consistent with the definition of Adjusted Demand.

29. Wabash Valley similarly argues the revised definitions proposed by the Midwest ISO continue to discriminate against non-control area utilities that have been excluded from reserve-sharing groups. Wabash Valley explains that interruptible load functions like resources, allowing the non-control area utility to interrupt the retail customer when the non-control area utility needs additional capacity to meet its firm load. Wabash Valley claims non-control area utilities will be required to carry extra planning reserves unless they turn control of their interruptible load over to a competitor utility.

c. Discussion

30. As part of the functions required to maintain reliability in the Midwest ISO, section 38.6 of the TEMT requires the Balancing Authority, or control area operator, to maintain the load-resource balance and coordinate the deployment of regulation and operating reserves within the Balancing Authority Area. Accordingly, the control area

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[22] According to the Midwest TDUs, load designated as interruptible would be excluded from the firm load for which they must carry reserves and therefore would reduce the amount of reserves that must be designated.

[23] *Cf.* 18 C.F.R. § 35.13(h)(28)(iii)(A)(1) (2005) (net peak load restricted to peak firm load).

operator must be able to reduce load during peak periods, as reflected in the Direct Control Load Management, Interruptible Demand and Interruptible Load definitions. Also, the Resource Adequacy provisions of the TEMT require the Midwest ISO to ensure adequate reserves are maintained by all market participants, whether they participate in reserve sharing pools or not. In the May 16 filing, the Midwest ISO proposes adding provisions to the TEMT that accommodate reserve sharing by non-control area utilities in situations in which reserve sharing agreements are not restricted only to the control area operator. These provisions also allow these entities to control their own interruptible load during peak periods, without direction from the control area operator. The comments of the Midwest TDUs and Wabash Valley are directed toward entities not covered by the proposed tariffs, *i.e.*, non-control area utilities that are in areas where the RRO agreements are restricted to control area operators.

31. The essence of the issue for the Midwest TDUs and Wabash Valley is that they do not want the burden of obtaining reserves for load that they can interrupt. However, these entities are not required to respond to control area operator instructions to interrupt their interruptible load during peak periods, since interruption of their interruptible load is at their sole discretion. Therefore, to the extent these entities do not interrupt interruptible load during peak periods, control area operators must obtain adequate reserves for the expected peak period load. To the extent these non-control area utilities do not have adequate reserves of their own, the control area operator must obtain the reserves. We find such an alternative arrangement inequitable for other market participants and those control area operators that must make up the reserve inadequacy.

32. While other operating arrangements may be possible, and we are encouraged by the representations of the Midwest TDUs and Wabash Valley that discussions are ongoing with the Midwest ISO, we see no alternative arrangement at this time that would allow non-control area utilities the benefits of access to reserves without also requiring that they bear the corresponding obligation of providing such reserves when needed or that they manage their interruptible load at the direction of the control area operator in order to maintain reliability. Absent participation in a reserve-sharing pool, non-control area utilities must make arrangements for sufficient reserves to support the load under their exclusive control, including interruptible load.

33. We disagree with Wabash Valley's characterization of its interruptible load as a resource when that resource cannot reduce the amount of required reserves needed for the maintenance of an adequate reserve margin during peak periods. Also, we do not consider the regulation that the Midwest TDUs cite to be applicable to this issue, since the cited peak load definition represents a calculation for an electric rate change filing with the Commission, whereas the issue at hand here is reserve planning in an RTO energy market.

34. We find that the proposed tariff revisions comply with the requirements of Compliance Order IV and therefore we accept them for inclusion in the TEMT.

2. IMM Monitoring Of Physically Withheld Transmission Facilities

a. Background and Compliance Filing

35. Compliance Order IV directed the Midwest ISO to add language to its physical withholding provisions to require the IMM to monitor, and report to the Commission, the behavior of transmission operators to determine if there is a pattern of scheduling outages that increases market costs compared to an alternative, and lower cost impact, outage scheduling.[24] In the May 16 filing, the Midwest ISO proposed the following language, with the revisions indicated in italics:

> A transmission facility shall be deemed physically withheld if it (a) is scheduled out of service for technical reasons that are not true or cannot be verified, (b) *due to the actions of Transmission Operators, the IMM has identified a pattern of scheduling outages resulting in increased market costs compared to an alternative and lower cost impact outage schedule. If such actions are identified, the IMM shall report such findings to the Commission and the Transmission Provider within thirty (30) days,* or (c) is not operated in accordance with Transmission Provider's Dispatch Instructions and such failure to conform to Transmission Provider's Dispatch Instructions causes a Binding Transmission Constraint. A transmission facility shall not be deemed withheld if it is subject to a forced outage or is out of service for maintenance in accordance with a maintenance schedule approved by the Transmission Provider.

b. Comments

36. The Midwest TDUs assert that the Midwest ISO's proposed revisions are awkward, and therefore they argue the proposed tariff revision should be deleted and replaced by the explanatory statement in the filing letter. Wabash Valley also protests the confusing placement of language requiring the IMM to monitor and report certain behavior.

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[24] *See* Compliance Order IV at P 112.

c. Discussion

37. We agree that the proposed tariff language is awkwardly written, and therefore we direct the Midwest ISO to insert a colon after "if," move "(a)" before "it," and add "it" after "(c)." We require the Midwest ISO to file revised tariff sheets within 30 days of the date of this order.

3. Other Tariff Provisions

38. Compliance Order IV required revisions to a number of other tariff provisions, the most significant being a revision to clarify that control area operators' actions will not be subject to enforcement action when they follow the directions of NERC, the Midwest ISO, local reliability councils or individual states.[25] There were no protests to these revisions. We find that the Midwest ISO has complied with the directives of Compliance Order IV and we accept the proposed tariff revisions.

The Commission orders:

(A) The requests for rehearing are hereby denied, as described in the body of this order.

(B) The Midwest ISO's May 16 filing is hereby accepted, subject to revision and further order, as described in the body of this order.

(C) The Midwest ISO is hereby required to make a compliance filing, as described in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

[25] *See* Compliance Order IV at P 104-05.